

LWG Issue #	LWG Dispute Issue	EPA Revised BHHRA	Proposed Resolution
Table 1, Issue 1	<p>EPA June 22, 2012 letter:</p> <p>“The discussion of the process used to evaluate risks to humans and the conclusions were not clearly presented and, in fact, there were several instances of incorrect or misleading information. For example, the BHHRA repeatedly stated that the exposure assessment assumed someone ate fish every day of the year for 30 years.</p> <p>The LWG is fully aware that such a statement is not accurate. Consumption rates are average lifetime intake doses mathematically averaged to give an average daily rate. EPA commented on this issue in our February 9, 2010 comment letter; however, the LWG failed to address it.”</p>	EPA has modified this language in the document.	No additional changes needed.
Table 1, Issue 2a	<p>EPA June 22, 2012 letter:</p> <p>There were several instances where the BHHRA does not fully reflect EPA’s directions for change, directions given years before and reiterated in our comments to previous versions. For example, EPA’s February 2010 <b>[should be July 16, 2010]</b> comment on Section 3.4, page 31 was:</p> <p>In this section and subsequently throughout the risk assessment, replace the term “95% UCL/max EPC” with “RME EPC.” The repeated references to a “mean” EPC relative to one based on a 95 percent UCL or maximum concentration is misleading. The text in the second paragraph incorrectly states that exposure point concentrations would be calculated differently for central tendency (CTE) and reasonable maximum (RME) exposures.</p> <p><b>Consistent with EPA guidance (1992, 2000), the EPC should represent an estimate of the arithmetic average concentration for a contaminant based on a set of site sampling data. Because of the uncertainty associated with estimating the true average concentration at a site, the 95 percent UCL of the arithmetic mean should be used for this variable.</b> The 95 percent UCL provides reasonable confidence that the true site average will not be underestimated. The average concentration, defined as the 95 percent UCL, should be used for both CTE and RME evaluations. The RME evaluation should be distinguished from CTE by accounting for variability in such variables as exposure frequency and intake rates.</p> <p>However, the LWG did not make the change, claiming that the EPCs were described in a factual manner. Use of the term 95% UCL/Max Scenario is</p>	EPA has modified this language in the document.	No additional changes needed.

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	incorrect and needs to be changed throughout the document. RME and CT are not defined based solely on calculation of EPC. Actually, EPC should be the same for both the RME and CT. Since the LWG used different EPCs for the RME and CT calculations, EPA is requiring the removal of the CT evaluations for the consumption scenarios in the BHHRA. Further, reference to RME and CT in the BHHRA were not consistent with those agreed to in the Programmatic Work Plan. EPA has modified the BHHRA to reflect those agreements and adequately describe the RME and CT.		
Table 1, Issue 2b	EPA June 22, 2011 letter: The reference to RME and CT in the BHHRA were not consistent with those agreed to in the Programmatic Work Plan. EPA has had to modify the document to reflect those agreements.	EPA has modified this language in the document.	No additional changes needed.
Table 1, Issue 3	EPA June 22, 2011 letter: There were many instances in the BHHRA where the only explanation the LWG provides for why something is done was that EPA directed or otherwise required it be done. While it may be true EPA directed changes, the LWG is fully aware of the technical basis for the direction and should have included such technical basis in the report. The LWG's failure to fully explain the basis for how the risk assessment was done is not consistent with EPA guidance nor is the report complete and transparent without it. Therefore, EPA had to modify the report to provide the rational for the directions in the text of the BHHRA for clarity and relevance for the assessment.	Currently does not indicate where EPA directed LWG, only provides basis for ALL input variables, including those directed by EPA.	Language can be added where LWG believe are important to note that were at EPA direction. If approach is acceptable, specific language and location in BHHRA would have to be developed and agreed to by both parties.
Table 1, Issue 4	EPA June 22, 2012 letter: Overall, the BHHRA did not present the process and information in a clear and transparent manner that would allow anyone outside those intimately involved in the development of this assessment to follow and understand. Thus, EPA had to extensively modify the report to make the report understandable to the general public.	EPA has modified this language in the document.	No additional changes needed.

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Table 2, Issue 1	The LWG objects to EPA's revisions that delete factual information regarding clam consumption because these revisions are inconsistent with prior agreements between EPA and LWG.	EPA removed language in the BHHRA that was not relevant to the document, whether it was factual or not.	There could be a footnote included to text [or inserted into text] in Section 3.3.6 that states "Harvest and possession of Asian clams is illegal in the state of Oregon because Asian clams are on the prohibited species list of the ODFW rules regarding the importation, possession, confinement, transportation and sale of nonnative wildlife (OAR 635-056-0050). However, this institutional control has no bearing on the BHHRA because Superfund baseline risks are risks that might exist if no remediation or institutional controls were applied at a site. (RAGs Part A)"

Table 2, Issue 2	The LWG objects to EPA's revisions describing the drinking water scenario, including deleting the term "hypothetical", because these revisions are inconsistent with prior agreements between EPA and the LWG.	EPA used the word "potential" rather than "hypothetical" to be consistent with EPA guidance.	The word "hypothetical" can be used once in Section 6.2.3.4, but not in title. If approach is acceptable, specific language and location in BHHRA would have to be developed and agreed to by both parties.
Table 2, Issue 3	The LWG objects to EPA's revisions deleting references to evaluations being done at the direction of EPA because these revisions are inconsistent with prior agreements between EPA and the LWG.	See Table 1, Issue 3.	See Table 1, Issue 3.
Table 2, Issue 4	The LWG objects to EPA's revisions that modify the Study Area boundaries because these revisions are inconsistent with prior agreements between EPA and the LWG.	The revisions to the Study Area boundary were only intended to clarify the language and make consistent with the data collected.	The language describing the study area can be changed in Section 1.3 "The approximate 10-mile portion of Portland Harbor from RM 1.9 to 11.8 is referred to as the Study Area (Map 1-1). Data used for this risk assessment was collected from RM 0.8 to RM 12.2."
Table 2, Issue 5	The LWG objects to EPA's revisions that were not the subject of prior comments.	EPA has authority under AOC.	No additional changes needed.